

REMARKS

The present amendment is submitted in response to the Office Action dated May 6, 2004, which set a three-month period for response, making this amendment due by August 6, 2004.

Claims 1-6 are pending in this application.

In the Office Action, the drawings were objected to for an informality. Claims 1 and 4-6 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,935,167 to Wengen.

The Applicants note with appreciation the allowance of claims 2 and 3, if rewritten in independent form to include the limitations of the base claim and any intervening claims.

In the present amendment, with regard to the objection to the drawings, the specification was amended on page 7 to state that the "clamping member is formed as a clip 13". The clamping member and clip are essentially the same element.

Also in this amendment, allowable claims 2 and 3 have been rewritten in independent form as new claims 7 and 8, respectively.

Claim 1 has been amended to more clearly define the present invention over the cited reference. One disadvantage of the device of the Wengen reference is that during implantation of such a device, it has to be re-gripped. However, the person implanting the device is not offered the possibility of provisionally inserting the device, then re-gripping the device and displacing it

into its final position. During the re-gripping, the device may tilt and therefore, implantation becomes difficult. The extension 13.1 of the leg 13 of the device shown in the Wengen reference is straight, or not curved. Therefore, it is not suitable for suspending the prosthesis during the course of the implantation.

In contrast, the extension of the leg designated with reference numerals 15, 25, 35 in the present application has a curved shape. Therefore, amended claim 1 now clearly defines that the extension of this leg is curved and not a center-part of the clamping means.

Because the Wengen reference fails to disclose at least this one feature of amended claim 1, the rejection under Section 102 cannot be maintained.

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1984).

For the reasons set forth above, the Applicants respectfully submit that claims 1-8 are patentable over the cited reference to Wengen. The Applicants further request withdrawal of the rejection under 35 U.S.C. 102 and reconsideration of the claims as herein amended.

In light of the foregoing arguments in support of patentability, the Applicants respectfully submit that this application stands in condition for allowance. Action to this end is courteously solicited.

Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss

appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,



Michael J. Striker
Attorney for Applicant
Reg. No.: 27233
103 East Neck Road
Huntington, New York 11743
631-549-4700